



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

May 26, 2005

REPLY TO THE ATTENTION OF:

R-19J

Honorable Phil R. Stiver
President
Elkhart County Commissioners
117 N. Second Street, Room 101
Goshen, IN 46526-3298

EPA Region 5 Records Ctr.



366074

Dear Commissioner Stiver:

Thank you for your May 12, 2005, letter to the U.S. Environmental Protection Agency (EPA), expressing your support of prompt remediation at the Himco Dump Superfund Site and the concern about payment of past costs incurred by EPA. I am pleased to address your concerns on EPA's activities at this site.

The 60 acre Himco Dump Site historically operated as a dump and as an unlicensed landfill accepting municipal, commercial and industrial waste from the Elkhart area. In 1990, EPA placed the Site on the federal Superfund National Priorities List. During September 1993, a remedy was selected. In 2003, the 1993 remedy was amended, which provided equal protectiveness of human health and the environment, was more cost effective, and allowed for the redevelopment of the property. Redevelopment was unlikely for the site if the 1993 remedy were implemented. EPA has been working with, and will continue to work with the city of Elkhart (City) and the local community in the remediation and redevelopment of this site. Gwendolyn Massenburg, EPA's project manager has worked diligently to develop a remedy that protects human health and the environment and provides for the opportunity to place the site back in productive use; a benefit to the entire Elkhart community. EPA also awarded a \$40,000 Superfund Reuse Initiative Grant to the City to develop a future use study for the site. With EPA's support, the City drafted a recreational use redevelopment plan that will complement the 2003 selected remedy.

The issues of EPA's past expenditures at this site are the subject of current negotiations between EPA, Department of Justice (DOJ), and the potentially responsible parties (PRPs). EPA cannot comment on the substance of those negotiations beyond information which is already publicly available. However, it should be noted that federal law provides that the federal government, on behalf of the nation's taxpayers, is entitled to recover monies spent at Superfund sites. It should also be pointed out that the parties who have been identified as PRPs at this site, while perhaps representing less than a majority of the total number of site customers, are either owner/operators

of the site or are responsible for at least 80% of the total volume of waste disposed of at this site. These parties are financially able to both implement the chosen remedy and reimburse EPA for past response costs. Despite their ability to pay and a clear history of involvement at the site, in their formal response to EPA's notice of potential liability and request for settlement dated January, 31 2005, the major PRPs have refused to pay anything towards the government's past response costs expended at this site. They have chosen instead to take issue with whether past costs needs to be paid at all for this site. EPA and DOJ will continue to negotiate with the PRPs. We remain hopeful that the good faith efforts of all parties will result in a prompt and satisfactory settlement, so that the statutory purposes are implemented in a way that is fair to all parties.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Mary Canavan or Phil Hoffman, the Region 5 Congressional Liaisons.

Very truly yours,

Bharat Mathur
Acting Regional Administrator

bcc: ORA w/ Control Slip